

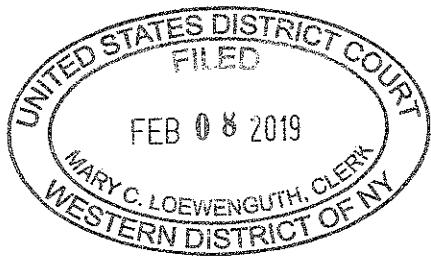
UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

JOHN FRISBIE, Individually and on  
Behalf of All Other Persons Similarly  
Situated,

Plaintiff,

v.

TOP LINE RESTAURANT, INC., et al.,  
Defendants.



DECISION & ORDER  
17-cv-6270-FPG-JWF

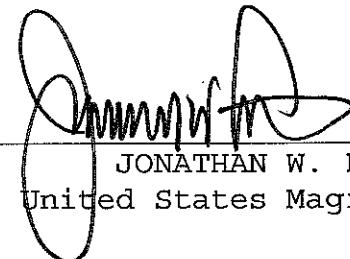
Currently before the Court is plaintiffs John Frisbie and Rebecca Russell's (collectively, "plaintiffs") motion for conditional class certification and notice to the proposed class pursuant to 29 U.S.C. § 216(b). See Docket # 47. On August 22, 2018, plaintiffs timely filed the instant motion for conditional class certification and notice to the proposed class under the FLSA as to the claims made by them against defendants Top Line Restaurants, Inc. and Top Line Management, LLC (collectively, "Top Line"). Docket # 47. Top Line responded on September 24, 2018 (Docket ## 49-51) and plaintiffs replied on October 9, 2018 (Docket # 52).

For the reasons stated on the record at oral argument on February 6, 2019, plaintiffs' motion for conditional class certification and notice (Docket # 47) is **denied without prejudice to renew**. Plaintiffs may renew their motion for conditional class certification on or before March 25, 2019 by re-filing their

original moving papers and including whatever supplemental facts they wish to provide. The Court will then issue a scheduling order for the renewed motion.

Pursuant to the agreement reached at the motion argument hearing, the statute of limitations for all putative class members is hereby tolled effective August 22, 2018, the date plaintiffs originally filed their motion, through the resolution of any renewed motion for conditional class certification.

**SO ORDERED.**



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JONATHAN W. FELDMAN  
United States Magistrate Judge

Dated: February 8, 2019  
Rochester, New York